# CHINA'S INFORMATION CONTROL PRACTICES AND THE IMPLICATIONS FOR THE UNITED STATES

#### **HEARING**

BEFORE THE

## U.S.-CHINA ECONOMIC AND SECURITY REVIEW COMMISSION

### ONE HUNDRED ELEVENTH CONGRESS

**SECOND SESSION** 

\_\_\_\_\_

June 30, 2010

\_\_\_\_\_

Printed for use of the

United States-China Economic and Security Review Commission Available via the World Wide Web: www.uscc.gov



UNITED STATES-CHINA ECONOMIC AND SECURITY REVIEW COMMISSION WASHINGTON: September 2010

#### U.S.-CHINA ECONOMIC AND SECURITY REVIEW COMMISSION

### DANIEL M. SLANE, Chairman CAROLYN BARTHOLOMEW, Vice Chairman

Commissioners:

DANIEL BLUMENTHAL PETER T.R. BROOKES ROBIN CLEVELAND JEFFREY FIEDLER Hon. PATRICK A. MULLOY Hon. WILLIAM A. REINSCH DENNIS C. SHEA PETER VIDENIEKS MICHAEL R. WESSEL LARRY M.WORTZEL

MICHAEL R. DANIS, Executive Director KATHLEEN J. MICHELS, Associate Director

The Commission was created on October 30, 2000 by the Floyd D. Spence National Defense Authorization Act for 2001 § 1238, Public Law No. 106-398, 114 STAT. 1654A-334 (2000) (codified at 22 U.S.C.§ 7002 (2001), as amended by the Treasury and General Government Appropriations Act for 2002 § 645 (regarding employment status of staff) & § 648 (regarding changing annual report due date from March to June), Public Law No. 107-67, 115 STAT. 514 (Nov. 12, 2001); as amended by Division P of the "Consolidated Appropriations Resolution, 2003," Pub L. No. 108-7 (Feb. 20, 2003) (regarding Commission name change, terms of Commissioners, and responsibilities of Commission); as amended by Public Law No. 109-108 (H.R. 2862) (Nov. 22, 2005) (regarding responsibilities of Commission and applicability of FACA); as amended by Division J of the "Consolidated Appropriations Act, 2008," Public Law No. 110-161 (December 26, 2007) (regarding responsibilities of the Commission, and changing the Annual Report due date from June to December).

The Commission's full charter is available at www.uscc.gov.

### **CONTENTS**

### WEDNESDAY, JUNE 30, 2010

## CHINA'S INFORMATION CONTROL PRACTICES AND THE IMPLICATIONS FOR THE UNITED STATES

| Opening remarks of Commissioner Robin Cleveland  |     |
|--|-----|
| PANEL I: SECURITY AND EXCHANGE COMMISSION PERSPECTIVES   |     |
| Statement of Mr. Paul M. Dudek, Chief, Office of International Corporate Finance, Division of Corporation Finance, U.S. Securities and Exchange Commission | 6   |
| ranci I. Discussion, Questions and Answers   | 9   |
| PANEL II: CONGRESSIONAL PERSPECTIVES   |     |
| Statement of Representative Chris Smith, a U.S. Representative from the State of New Jersey.  Panel II: Discussion, Questions and Answers.                 |     |
| PANEL III: INFORMATION FOR INVESTORS   |     |
| Statement of Mr. James V. Feinerman, Professor, Georgetown University  Law School, Washington, DC  |     |
| Statement of Mr. Peter M. Friedman, Attorney, New York, NY   | 4   |
| Panel III: Discussion, Questions and Answers   |     |
| PANEL IV: CHINA'S "STATE SECRET" LAWS  |     |
| Statement of Mr. Gordon G. Chang, Author and Forbes.com Columnist, Bedminister, New Jersey   | .75 |
| Prepared statement.  |     |
| Statement of Mr. Mitchell Silk, Partner, Allen & Overy LLP, New York, New York   | 78  |
| Panel IV: Discussion, Questions and Answers  |     |

### PANEL V: THE INTERNET AND BAIDU

| Statement of Ms. Rebecca MacKinnon, Schwartz Senior Fellow, New America |     |
|---|-----|
| Foundation, Washington, DC  | 109 |
| Prepared statement  | 111 |
| Statement of Ms. Rebecca Fannin, Author, "Silicon Dragon," New York, NY |     |
| Prepared statement.   | 114 |
| Panel V: Discussion, Questions and Answers                              | 116 |